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SCHMEISER OLSEN & WATTS 18 E UNIVERSITY DRIVE SUITE # 101 MESA, AZ 85201			JARRETT, SCOTT L	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,663

Applicant(s)

SHOTEY ET AL.

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

HC

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract is longer than 150 words. Correction is required. See MPEP § 608.01(b).

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Merchandiser Tracking System and Method.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-9, 11-26 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 2-9, 11-26 recite the limitation "The invention..." in claim X (wherein X represents the parent claim). There is insufficient antecedent basis for this limitation in the claim. Examiner suggests applicant amend the claims to recite "The system in claim X..." to overcome this rejection.

Regarding Claim 25, claim 25 recites the limitation "...the merchant." in claim 10. There is insufficient antecedent basis for this limitation in the claim. Examiner interpreted claim to read "...the merchandiser." And suggests applicant amend the claims to recite "...the merchandiser." to overcome this rejection.

Regarding Claim 29, claim 29 recites the limitation "The invention..." in claim 27. There is insufficient antecedent basis for this limitation in the claim. Examiner suggests applicant amend the claims to recite "The method of claim 27..." to overcome this rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland et al.; U.S. Patent No. 5,166,499.

Regarding Claim 1 Holland et al. teach a system and method for tracking staff (staff, users, workers, etc.) activities/tasks, the activity record comprising task, location (zones, checkpoints, predetermined regions, user-definable regions) and time (start, end, enter, exit, timestamp) information, for the purposes of insuring the successful completion of the personnel's responsibilities (Abstract).

More specifically Holland et al. teach a data collection system and method for collecting data pertaining to a user's (worker, staff, personnel, etc.) activity at a target location (work/job site, store, zone, etc.) comprising:

- a handheld device (processor, computer, terminal, subsystem, component, etc.) located at the target location (Column 1, Lines 48-56; Column 3, Lines 45-68; Column 4, Lines 1-10; Figures 1-2 as shown below);
- a code reader (input device, touch screen, keypad, bar code, magnetic strip, radio frequency identification, etc.) to receive input from a user including

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presence/location information (Column 1, Lines 48-56; Figures 1-2 as shown below);

and

- receiving (reading) and storing (recording) user location information (Column 1, Lines 48-56; Tables 1 and 3; Figures 3, and 8-13).

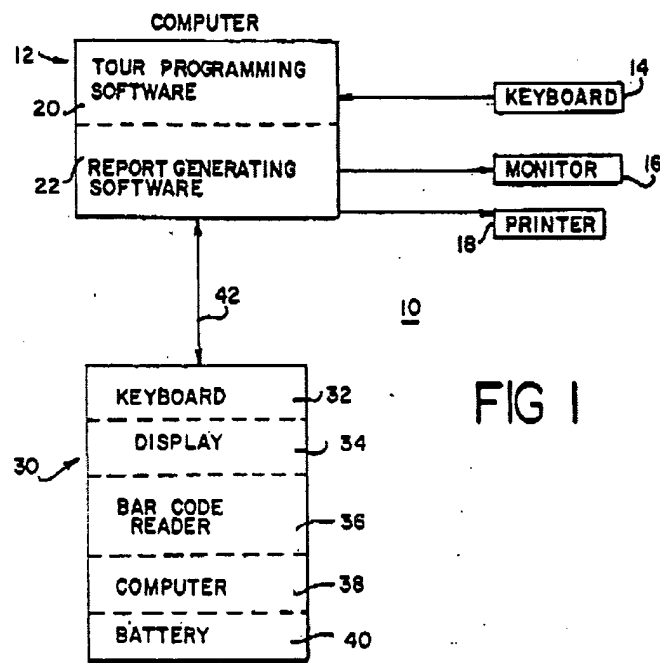


FIG 1

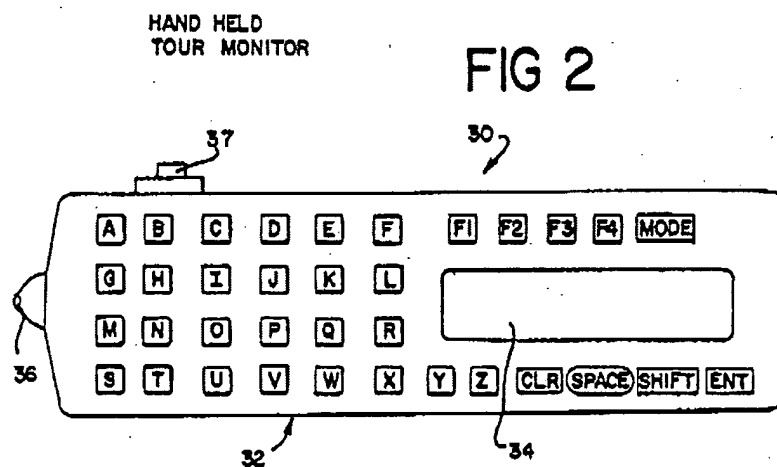


FIG 2

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Holland et al. does not expressly teach that the user (worker, personnel, staff, etc.) is a merchandiser as claimed.

As per applicant's own admission the utilization and role of merchandisers (retailing force, sales force, etc.) to manage and collect information regarding product displays (point-of-sale, point-of-presence, product display, marketing materials, etc.) is old and very well known (Specification: Background Information Section, Page 2, Lines 6-20; emphasis added).

"It is **common** in the wholesale and retail industries for manufacturers and/or distributors of products to enlist the services of a person, commonly referred to as a "**merchandiser**" to visit the stores in which that manufacturer's or distributor's products are handled, and to ensure that the products are properly and advantageously presented to consumers. The **merchandiser**, for example, would be assigned a set of stores that handle products or product lines of its employer. At each location, the **merchandiser** typically inspects each display at which the product or product lines in question are presented. The **merchandiser** may appropriately stock the products so that an adequate supply of inventory is available to consumers. The **merchandiser** also may clean, organize, and otherwise maintain the display so that it is attractive and functional to optimize its effectiveness in attracting purchasers and supporting sales of the product or product line. The **merchandiser** may be an employee of the manufacturer or distributor, or he or she may be a separately employed contractor or agent for the manufacturer or distributor. It is not uncommon for **merchandisers** to represent a number of manufacturers and/or distributors, and a variety of products and product lines."

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It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its ability to monitor a person's activity, location and time as taught by Holland et al. would have been utilized to collect data pertaining to a merchandisers (personnel, staff) at a target location(s); the resultant system enabling distributors/manufacturers (i.e. merchandiser's employer) to accurately monitor (track, verify, record) the merchandiser (personnel) activities (tour; Holland et al.: Abstract).

Regarding Claim 2 the data collection system as claimed is merely adapted to read a bar code, however the system does not actually read a bar code. For the purposes of examination examiner assumes the applicant will amend the claim to recite that system actually reads a bar code.

Holland et al. teach a data collection system and method wherein the code reader (input device) reads a bar code (Abstract; Figure 1, Element 26).

Regarding Claim 3 the data collection system as claimed is merely adapted to read a magnetic strip, however the system does not actually read a magnetic strip. For the purposes of examination examiner assumes the applicant will amend the claim to recite that system actually reads a magnetic strip.

Holland et al. teach that the data collection system and method reads a magnetic strip or other suitable input mechanism/device (Column 12, Lines 3-5).

Regarding Claim 4 Holland et al. teaches that the data collection system and method (system, processor, device, etc.) includes (is connected to) a printer wherein the printer prints information relative to the information entered through the code reader (Column 9, Lines 20-25; Figure 1, Element 18; Figure 15).

Regarding Claim 5 Holland et al. teach a data collection system and method comprising a display associated with the system (processor, terminal, device, etc.) wherein the display provides certain predetermined information to enable the user (merchandiser) to input information through the code reader (device, handheld, etc.; e.g. user interface, menu, graphical user interface, etc.; Figure 2, Element 34; Figures 4-7, 14-16).

Regarding Claim 6 Holland et al. teach that the data collection system and method utilizes a plurality of peripherals to capture and display a plurality of information including but not limited to the user's presence/location as discussed above and that such hardware configurations/peripheral devices are not limited to those disclosed (Column 12, Lines 1-3).

Holland et al. does not expressly teach that the handheld device utilizes a touch screen display.

Official notice is taken that the utilization of touch screens as a display and/or input device for computing devices including but not limited to handheld devices (laptops, personal digital assistants, etc.) is old and very well known in the art and for providing a convenient mechanism (e.g. does not require a keyword) for entering (submitting, inputting, providing) information.

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its utilization of a plurality of peripheral devices, would have benefited from utilizing a touch screen display/input device; the resultant system providing a convenient mechanism for entering the plurality of user/worker information collected by the system.

Regarding Claim 7 Holland et al. teach a data collection system and method comprising a transfer mechanism (modem, phone, cable, network, printer, etc.) to transmit information (upload route log, download tour, etc.) from the system (device, processor) to a data center (central system, client/server, etc.) upon the occurrence of a predetermined event (e.g. user prompt/selection; Column 3, Lines 59-65; Column 9, Lines 10-19; Column 12, Lines 8-17; Table 2; Figures 6 and 14).

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Regarding Claim 8 Holland et al. teach a data collection system and method comprising a transfer mechanism (modem, phone, network, printer, etc.) to transmit information (upload route log, download tour, etc.) from the system (device, processor) to a data center (central system, client/server, etc.) upon the occurrence of a predetermined event (e.g. user prompt/selection) and further that the transmission of all or some of the collection information can occur at any time/on any schedule (Column 3, Lines 59-65; Column 9, Lines 10-19; Column 12, Lines 8-17; Table 2; Figures 6 and 14).

Holland et al. does not expressly teach that the user activity data collected by the system is transmitted several times daily.

Official notice is taken that submitting collected information/data at regular intervals, e.g. several times daily, is old and well known in the art. An extreme example of such a "regular intervals" are systems that provide real-time or near real-time data updates/streams thereby by enabling the substantially continuous monitoring of a user's activities.

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its ability to transmit all and/or some of the collected information at any time, would have benefited from transmitting (providing, uploading, etc.) user activity data periodically throughout the day (or other standard

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allotment of time); the resultant system providing regularly schedule updates thereby enabling users of the system to more closely (more frequently) monitor worker activities.

Regarding Claim 9 the data collection system as claimed is merely adapted to receive merchandiser arrival information, however the system does not actually receive merchandiser arrival and/or departure information. For the purposes of examination examiner assumes the applicant will amend the claim to recite that system actually receives merchandiser arrival and/or departure information.

Holland et al. teach a data collection system and method wherein the code reader (input device) receives user arrival and departure information when the user enters/leaves a predetermined region (i.e. in proximity to the target location, in the target location/zone/checkpoint, etc.; Table 1 "Enter Zone", "Leave Zone"; Tables 2-3; Figures 8-9 and 13).

Regarding Claim 27 Holland et al. teach a data collection system and method for collecting user information at a target location (predetermined zones, checkpoints, etc.) comprising:

- determining (setting up, programming) a predetermined region about (around, adjacent, adjoining, near, etc.) a target location (user definable zones; Column 2, Lines 44-66);

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- entering (inputting, programming, providing, etc.) predetermined region information into a geo-location (location aware) device (Column 2, Lines 44-66; Figure 3);

- recording (saving, storing, etc.) the position of the geo-location device when it enters (arrives) the predetermined region (Column 1, Lines 47-56; Tables 1-3).

Holland et al. does not expressly teach that the user (worker, personnel, staff, etc.) is a merchandiser as claimed.

As per applicant's own admission the utilization and role of merchandisers (retailing force, sales force, etc.) to manage and collect information regarding product displays (point-of-sale, point-of-presence, product display, marketing materials, etc.) is old and very well known (Specification: Background Information Section, Page 2, Lines 6-20).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its ability to monitor a person's activity, location and time as taught by Holland et al. would have been utilized to collect data pertaining to a merchandisers (personnel, staff) at a target location(s); the resultant system enabling distributors/manufacturers (i.e. merchandiser's employer) to accurately monitor (track, verify, record) the merchandiser (personnel) activities (tour; Holland et al.: Abstract).

Regarding Claims 28-29 Holland et al. teach a data collection system and method wherein the system records (saves, stores, etc.) arrival (entry) and departure (exit) time and location of the geo-location/handheld (location aware) device related to a predetermined geographic region/zone (Column 1, Lines 44-56; Table 1 "Enter Zone", "Leave Zone"; Tables 2-3; Figures 8-9 and 13).

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7. Claims 10-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland et al., U.S. Patent No. 5,166,499 as applied to claims 1-9 and 27-29 above and further in view of Small et al., U.S. Patent No. 5,642,303.

Regarding Claim 10 Holland et al. teach a data collection system and method for collecting merchandiser information at a target location comprising:

- a plurality location identifiers (e.g. bar codes) at a predetermined location (zones, checkpoints, predetermined regions; Column 44-57; Column 6, Lines 6-49; Figures 8-10);
- a receiver (sensor, bar code reader) in a second location (e.g. merchandiser, user, handheld device; Figures 1-2 , Element 36); and
- a storage device, associated with the receiver (bar code reader), in possession of the user (Column 1, Lines 47-56; Figures 1-2);
- activating (initiating, starting, etc.) the reading (inputting, capturing, etc.) of the location identifiers and the code reader (receiver) such that the presence of the merchandiser within a region is recorded in the storage device (Column 1, Lines 47-56; Figures 1-2).

Further Holland et al. teaches that the data collection system has a sensor means for reading checkpoint codes and for generating and storing time stamped sensor signals (Column 1, Lines 47-68) and that the system can utilize a plurality of input peripherals as discussed above.

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Holland et al. does not expressly teach that the user (worker, personnel, staff, etc.) is a merchandiser as claimed.

As per applicant's own admission the utilization and role of merchandisers (retailing force, sales force, etc.) to manage and collect information regarding product displays (point-of-sale, point-of-presence, product display, marketing materials, etc.) is old and very well known (Specification: Background Information Section, Page 2, Lines 6-20).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its ability to monitor a person's activity, location and time as taught by Holland et al. would have been utilized to collect data pertaining to a merchandisers (personnel, staff) at a target location(s); the resultant system enabling distributors/manufacturers (i.e. merchandiser's employer) to accurately monitor (track, verify, record) the merchandiser (personnel) activities (tour; Holland et al.: Abstract).

Holland does not expressly teach that the data collection system and method locates a transmitter at a predetermined location, for the purposes of determining the location of a user, or subsequently communicating with the transmitter as claimed.

Small et al. teach the utilization of transmitters/receivers (transceivers) to determine the location of a user (asset, person, individual, staff, personnel, etc.), in an analogous art of time and location based computing, for the purposes of providing systems with location (geo-location) information (Abstract; Figure 2).

More specifically Small et al. teach a system and method for providing time and location based computing wherein the system comprises a plurality/series of transmitters (beacons, radio frequency transmitters) that are placed at predetermined locations and one or more handheld devices comprising a processor, display, receiver and memory (Column 2, Lines 43-65; Figure 1) that receive and utilize the received time and location information to provide time and location based services to the user.

Small et al. further teach that location-based services are old and well known and that such systems include Global Position Systems ("Many of today's location-based applications rely of Global Positioning System (GPS) to determine their physical location.", Column 1, Lines 27-29) as well as Texas Instruments Registration and Identification System (TIRS; Column 4, Lines 46-57).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method for collection information pertaining to a user's activities, with its ability to receive, determine and store user location signals/information related to user activities/tasks being performed, as taught by Holland et al. would have benefited from utilizing transmitters/receivers (transceivers, etc.) to determine the location of the user in view of the teachings of Small et al.; the resultant

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system streamlining the location determination process (steps) by eliminating the need for the user to read location information utilizing bar codes (i.e. provide a simple/improved infrastructure for time and location based computing; Small et al.: Column 2, Lines 5-25).

Regarding Claims 11-14 and 22 Holland et al. teach a data collection system and method wherein the system comprising:

- a handheld is a geo-location positioning device (i.e. bar code reader and/or other signals enable the handheld device to know/determine its location; Column 1, Lines 47-55; Column 2, Lines 7-57; Figures 1-2);
- the geo-location positioning device receives/reads location information from the sensor signals (e.g. bar code) when the device is within the region (Column 1, Lines 47-55; Column 2, Lines 7-57);
- geo-location (location) information is stored within data storage (i.e. stores presence/event of the user in a predetermined location; Column 1, Lines 47-55; Column 2, Lines 7-57).

Holland et al. does not expressly teach that the handheld device utilizes well-known radio frequency or global positioning satellite (GPS, radio frequency transmitter/receiver) technologies or that the handheld device receives broadcast location information from a transmitter located within the predetermined region as claimed.

Small et al. teach a system and method for enabling time and location based computing systems wherein:

- the handheld device is a geo-location positioning device comprising of a receiver and the geo-location positioning device receiving a broadcast location from the transmitter when the device is within the region (Figure 1; Column 2, Lines 43-65; Column 4, Lines 3-7);

- a plurality of radio frequency transmitters (Figure 2; Column 2, Lines 43-65);

and

- geo-location information is stored within data storage (i.e. stores presence/event of the user in a predetermined location; Column 1, Lines 50-62; Figure 1).

Small et al. further teach that location-based services are old and well known and such systems include Global Position Systems ("Many of today's location-based applications rely of Global Positioning System (GPS) to determine their physical location.", Column 1, Lines 27-29).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method for collection information pertaining to a user's activities, with its ability to receive, determine and store user location signals/information related to user activities/tasks being performed, as taught by Holland et al. would have benefited from utilizing transmitters/receivers (transceivers, etc.) to

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determine the location of the user in view of the teachings of Small et al.; the resultant system streamlining the location determination process (steps) by eliminating the need for the user to read location information utilizing bar codes (i.e. provide a simple/improved infrastructure for time and location based computing; Small et al.: Column 2, Lines 5-25).

Regarding Claim 15 Holland et al. teach a data collection system and method wherein the receiver has a storage device for storing merchandiser presence/location information (Column 1, Lines 47-56).

Regarding Claims 17-18 Holland et al. teach that the storage device records (saves, stores, etc.) departure of the receiver (handheld device, user) outside of the predetermined region and that the departure information includes the time of day (timestamp, Column Table 1 "Enter Zone", "Leave Zone"; Tables 2-3).

Regarding Claims 19 and 21 Holland et al. teach a data collection system and method wherein the location identification signals (bar codes) are at target locations (predetermined zones, checkpoints, product displays) and that the user utilizes a handheld device comprising a receiver/reader and a storage device (i.e. receiver and storage device are unitary; Column 1, Lines 47-56; Figures 1-2).

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Holland et al. does not expressly teach the utilization of transmitters/receivers as claimed.

Small et al. teach the placement of transmitters (beacons) at target locations (zones, predetermined regions, etc.) as well as the utilization of handheld devices comprising receivers and storage devices utilized by users (Column 2, Lines 37-65; Column 3, Lines 63-68; Column 4, Lines 1-17; Figures 1-2).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method as taught by Holland et al. would have benefited from utilizing transmitters placed at target locations to provide location information to the user's handheld devices, in view of the teachings of Small et al.; the resultant system streamlining the location determination process (steps) by eliminating the need for the user to read location information utilizing bar codes.

Regarding Claim 20 Holland et al. teach a data collection system and method wherein the system records, in a storage device, the receipt of the transmission by the receiver (sensor signals, bar code reader) from the signal provider (bar code, transmitter) and the time of receipt of the transmission (i.e. timestamp; Column 1, Lines 47-56; Tables 1-3).

Regarding Claim 23 Holland et al. teach data collection system and method for collecting information pertaining to the activity of a user at a plurality of target locations as discussed above.

Holland et al. does not expressly teach that the user (worker, personnel, staff, etc.) is a merchandiser or that the information collected relates to the merchandiser' interaction with product displays consisting of packaged products as claimed.

As per applicant's own admission the utilization and role of merchandisers (retailing force, sales force, etc.) to manage and collect information regarding product displays (point-of-sale, point-of-presence, product display, marketing materials, etc.) is old and very well known (Specification: Background Information Section, Page 2, Lines 6-20; emphasis added).

"It is **common** in the wholesale and retail industries for manufacturers and/or distributors of products to enlist the services of a person, commonly referred to as a "merchandiser" to visit the stores in which that manufacturer's or distributor's products are handled, and to ensure that the products are properly and advantageously presented to consumers. The merchandiser, for example, would be assigned a set of stores that handle **products or product lines** of its employer. At each location, the merchandiser typically inspects each **display** at which the product or product lines in question are presented. The merchandiser may appropriately stock the products so that an adequate supply of inventory is available to consumers. The merchandiser also may clean, organize, and otherwise maintain the **display** so that it is attractive and functional to optimize its effectiveness in attracting purchasers and supporting sales of the product or product line. The merchandiser may be an employee of the

manufacturer or distributor, or he or she may be a separately employed contractor or agent for the manufacturer or distributor. It is not uncommon for merchandisers to represent a number of manufacturers and/or distributors, and a variety of products and product lines."

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method, with its ability to monitor a person's activity, location and time as taught by Holland et al. would have been utilized to collect data pertaining to merchandisers (personnel, staff) at target location(s), the target locations being retail locations comprising of one or more product displays of packaged products; the resultant system enabling distributors/manufacturers (i.e. merchandiser's employer) to accurately monitor (track, verify, record) the merchandiser (personnel) activities (tour; Holland et al.: Abstract).

Holland et al. does not expressly teach that a transmitter located in close proximity to the target locations (zones, predetermined regions, display units, etc.) as claimed.

Small et al. teach the placement of transmitters (beacons) in close proximity to target locations, in an analogous art of time and location based computing, for the purposes of tracking/locating users/objects in the predetermined region (zones, areas, etc.; Column 2, Lines 37-65; Column 3, Lines 63-68; Column 4, Lines 1-17; Figures 1-2).

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method as taught by Holland et al. would have benefited from utilizing transmitters placed at target locations to provide location information to the user's handheld devices, in view of the teachings of Small et al.; the resultant system streamlining the location determination process (steps) by eliminating the need for the user to read location information utilizing bar codes.

Regarding Claim 24 Holland et al. does not expressly teach placing a transmitter in a product package.

Small et al. further teach that location-based services are old and well known and such systems include Texas Instrument's Registration and Identification System (TIRS; Column 4, Lines 46-57).

Official notice is taken that placing transmitters (passive and/or active, tracking devices) in/on packages (objects, items, etc.) for the purposes of tracking/locating those objects is old and well known in the art.

It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method as taught by Holland et al. would have benefited from utilizing transmitters placed in/on product packages (items, objects) to provide item location/tracking information to the system, in view of the teachings of

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Small et al. and official notice; the resultant system providing for the detailed location tracking of products/items.

Regarding Claims 25-26 Holland et al. does not expressly teach that the system utilizes transmitters/receivers (transceivers) as claimed.

Small et al. teach a method and system for enabling time and location based computing as discussed above. Small et al. further teach that providing time and location based computing is old and well known and includes such systems as Rank Xerox EuorPARC's use of Olivetti's Active Badge system and method wherein the system comprises a plurality of infrared receivers located at predetermined locations (on the ceiling of each office) connected to a central server/system and a plurality of transmitters (active badges) worn by users (Column 1, Lines 44-68).

Small et al. does not expressly teach that the well-known Olivetti Active Badge system and method utilizes triangulation techniques (methods, approaches, etc.) to determine the position of a transmitter (transmitting source, active badge).

Official notice is taken that triangulating a signal in order to locate the origin of the signal is old and very well known in the art.

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It would have been obvious to one skilled in the art at the time of the invention that the data collection system and method as taught by Holland et al. would have benefited from utilizing receivers at predetermined locations and transmitters placed in/on items to provide item location/tracking information to the system, in view of the teachings of Small et al. and official notice; the resultant system providing for the detailed location tracking of products/items.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Malec et al., U.S. Patent No. 5,287,266, teach a marketing/sales data collection system and method for collecting marketing/sales/advertising data at a target location (store) wherein users (shoppers) are monitored/tracked, via wireless transmitters/receivers, as they pass through various zones/predetermined regions (shopping path) in the target location.

- Hochstein et al., U.S. Patent No. 5,311,185, teach a data collection system and method for monitoring/locating personnel and assets/objects utilizing transponders/transceivers.

- Danielson et al., U.S. Patent No. 5,468,947, teach a data collection system and method wherein the system utilizes a handheld device to collect, record and transmit a plurality of information/data. Danielson et al. further teach that the handheld device comprises: a processor, display, data storage, bar code reader, touch screen (handwritten input), data transmission mechanism and printer.

- Bennett, Michael, U.S. Patent No. 5,550,359, teaches a data collection system and method for collecting data at a target location wherein the system records and reports on user (personnel, worker, staff, etc.) activities such as to arrival/ departure times to/from a predetermined location. Bennett further teaches that the system utilizes a plurality of peripherals including but not limited to magnetic strip and bar code readers.

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- Tymn, Gary, U.S. Patent No. 5,508,977, teach a data collection system and method for collecting and reporting time-based work activity associated with a service provider (technician) wherein the system utilizes a plurality of peripherals including but not limited to display, data storage, keypad, magnetic strip and bar code readers.

- DeTemple et al., U.S. Patent No. 5,572,653, teach a retail display and item tracking system and method for tracking customers (users, shoppers) through the store to determine shopping habits, effect of product displays/advertising, product placement and the like. DeTemple et al. teach that the data collection system and method utilizes radio frequency and infrared transceivers located in predetermined regions (zones) throughout the store to track, record and transmit user activity to a central computer (system, server).

- Fanjoy, Logan, U.S. Patent No. 5,842,181, teaches a time tracking and reporting system and method for monitoring a person's (staff, personnel, worker, contractor, user) activity/task (work assignment), charge accounts (projects, clients) and time spent (start/end timestamp) information via a handheld device, the handheld device comprising: a processor, display, user interface, data storage, code reader and transmission mechanisms connected to a central server/system. Fanjoy further teaches that the collected information can be utilized for a plurality of applications including but not limited to employee performance evaluations, billing/invoicing, inventory and the like.

- Richard, Owen, U.S. Patent NO. 5,867,823, teaches a data collection system and method for collecting and reporting worker activity (work completed) at a target

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location(s) (retail store) wherein the system utilizes a handheld device comprising of a processor, display, bar code reader, transmission mechanism and data storage to record, verify and report the completion of a plurality of tasks/activities.

- Dussell et al., U.S. Patent No. 6,411,899, teach a wireless handheld device (personal digital assistant) for performing, scheduling and tracking location dependent/specific tasks/activities wherein the system utilizes well-known global positioning system technology to determine the location of the user.

- Finch et al., U.S. Patent No. 6,751,650, teach a data collection and monitoring system and method for collecting information/data related to worker (contractor, distributed workforce) activities (time, place, task, etc.) at a plurality of locations (work sites) wherein the system utilizes a wireless handheld device comprising: a processor, display, code reader, data storage, transmission mechanism and a graphical user interface connected to a central server/system.

- Berson, William, U.S. Patent No. 6,802,005, teaches a data collection system and method for tracking a person's (user, staff, personnel) activity (e.g. arrival/departure times) at a plurality of locations (job sites) wherein the system utilizes one or more devices, the devices comprising a display, data storage, processor, a bar code reader and printer, connected to a data center (central server, data processing center, etc.).

- Overhultz et al., U.S. Patent No. 6,837,427, teach an advertising compliance system and method for collecting marketing data/information the system comprising: a central server/system, handheld code reader/device and product/product display identification tags.

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- Sweeney et al., U.S. Patent Publication No. 2003/0227384, teach a system and method for collecting marketing information from a plurality of point-of-sale marketing materials (e.g. product display) wherein the system monitors and verifies the presence/location of the marketing material (merchandiser) utilizing proximity and geo-location devices/sensors. Sweeney et al. further teach that the data collection system can detect the presence of people (shoppers, users) in a predetermined proximity/location (viewing) the marketing material.

- Cadgene, Narcisse, Sales and Merchandising – Organizing for Profits, teaches the old and well known practice of utilizing merchandisers (retailing force) to manage retail product displays.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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